BEFORE HON'BLE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. No. 1127 of 2003

PETITIONER : SMT. USHA PETHKAR, age about 61 years widow of Late Shri Vasant Pethkar resident Near Hanuman Mandir, Budhapara, Raipur (CG.)

VERSUS

RESPONDENT : 1. STATE OF CHHATTISGARH, through the Secretary Department of Revenue (Pension), Mantralaya Raipur (CG.)

2. THE ASSISTANT CONTROLLER, Govt. Regional Printing Press, Rajnandgaon (CG.)

P. R. No. 1541/03
Presented by Shri C.R. Sahu
dated 23.6.03

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT : DIRECTION AND/OR ORDER

NOTARY

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice Satish K. Agnihotri.

W. P. No. 1127 of 2003

Petitioner : Smt. Usha Pethkar

Versus

Respondents : State of Chhattisgarh & another

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present: Shri Sunil Sahu, Advocate for the petitioner.
Shri A.S. Kachhawaha, Government Advocate for the State/respondents.

ORDER
(6th December, 2006)

1. The petitioner is the widow of Late Shri Vasant Pethkar, who retired as Binder in the Government Printing Press, Rajnandgaon (C.G.) on 30.04.1992 on attaining the age of superannuation. The deceased Shri Vasant Pethkar was granted pension and had been receiving pension till he died on 1.10.1992(Annexure P-2).

2. The petitioner being the widow of Late Shri Vasant Pethkar, approached the authorities for grant of family pension asserting that she is entitled to the same under Rule 48 of Madhya Pradesh Civil Services (Pension) Rules, 1976.

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3. The petitioner was denied family pension on the only ground that the husband of the petitioner had not nominated her in the nomination form. There is no other ground to deny the family pension that the petitioner was not eligible to get family pension.

4. In the meantime, the petitioner approached the Second Civil Judge Class-I, Rajnandgaon, who, by order/decree dated 29th July, 1994 passed in Miscellaneous Case No. 6/93 declared that the petitioner is the sole successor of deceased Late Shri Vasant Pethkar as under :-

"4- इसके अलावा आवेदिका के साक्षी विनायक ने भी अपने शपथ पूर्वक किये गये कथन में आवेदिका को बसंत पेठकर का एक मात्र उत्तराधिकारी होना व्यक्त किया है । पेंशन के सम्बंध में आवेदिका ने जो मौखिक साक्ष्य की है उसकी पुष्टि प्रस्तुत प्र0पी0–1 से भी होता है जिसमें उप नियंत्रक शासकीय मुद्राणालय राजनांदगांव द्वारा आवेदिका को मृत बंसत पेठकर की पेंशन प्राप्त करने हेतु उत्तराधिकार प्रमाण पत्र प्रस्तुत किये जाने हेतु निर्देशित किया गया है इस प्रकार आवेदिका की अखंडित साक्ष्य से यह प्रमाणित होता है कि वह बसंत पेठकर की एक मात्र उत्तराधिकारी है और बसंत पेठकर को दी जाने वाली पेंशन की हकदार है ।''

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5. The said order passed by the Second Civil Judge Class-I, Rajnandgaon has attained finality as the order remains unchallenged.

6. In view of the above clear order passed by the Second Civil Judge Class-I, Rajnandgaon, the objection raised by the respondents/authorities deserve to be over-ruled and the petitioner, being sole legal heir of the deceased Late Shri Vasant Pethkar, is entitled to the family pension.

7. Thus, the writ petition is allowed and the respondents/authorities are directed to release the family pension to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash